

**RAS 3400**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Presiding Officer  
Dr. Charles N. Kelber  
Dr. Peter S. Lam

**DOCKETED 09/14/01**  
**SERVED 09/14/01**

In the Matter of

DUKE COGEMA STONE & WEBSTER

(Savannah River Mixed Oxide Fuel  
Fabrication Facility)

Docket No. 070-03098-ML

ASLBP No. 01-790-01-ML

September 14, 2001

ORDER

At 9:00 a.m. on Friday, September 21, 2001, the Licensing Board will hold a prehearing conference in Room A1 of the North Augusta Community Center, 495 Brookside Avenue, North Augusta, South Carolina, to hear oral arguments on the standing of the Petitioners to intervene in this proceeding and on the admissibility of the Petitioners' proffered contentions. Should future events require any changes in this schedule, the Licensing Board will immediately notify the Participants by e-mail and telephone.

All Participants are free to use less than the various allocations of time set out below. The Petitioners should assume that the Board has carefully read all the pleadings. The Petitioners should focus their oral presentations on the arguments asserted by the Applicant and the Staff in their respective submissions opposing the contentions, and on how their contentions meet the standards of 10 C.F.R. § 2.714(b)(2).

The Board will follow the order of presentation and time allocations as set forth below:

I. Standing:

A. Mr. Moniak/Blue Ridge Environmental Defense League (BREDL), 4 minutes. Applicant and NRC Staff 2 minutes each in response.

B. Ms. Thomas/Environmentalists Inc. (EI), 4 minutes. Applicant and Staff 2 minutes each in response.

II. Contentions:

A. Contentions of EI

Contentions A through V

Two minutes for each contention. Applicant and Staff 1 minute each in response for each contention.

B. Contentions of Mr. Moniak/BREDL

1. Group 1(1A through 1E ) --- Gross Violations of Radioactive Waste Management Rules

Moniak/BREDL 10 minutes total. Applicant and Staff 5 minutes each in response.

2. Group 2 (2A through 2D) --- NRC Violations of NEPA

Moniak/BREDL 10 minutes total. Applicant 5 minutes. Staff 3 minutes in response.

3. Group 3 (3A through 3C) --- Conflicts of Interest

Moniak/BREDL 3 minutes total. Applicant and Staff 1.5 minutes each in response.

4. Group 4 (4A and 4B) --- Qualifications

Moniak/BREDL 2 minutes total. Applicant and Staff 1 minute each in response.

5. Group 5 (5A through 5E) --- Unresolved Issue of Authority of Applicant to Apply for and Hold License

Moniak/BREDL 5 minutes total. Applicant and Staff 2.5 minutes each in response.

6. Group 6 (6A) --- Compliance Reporting

Moniak/BREDL 2 minutes total. Applicant and Staff 1 minute each in response.

7. Group 7 --- Nuclear Reactor Safety Issues Regarding Fuel Made From Plutonium

Moniak/BREDL 2 minutes total. Applicant and Staff 1 minute each in response.

8. Group 8 (8A through 8F) --- DOE NEPA Violations

Moniak/BREDL 5 minutes total. Applicant and Staff 2.5 minutes each in response.

9. Group 9 (9A and 9B) --- Inadequate Radiological Protection of the Public

Moniak/BREDL 5 minutes total. Applicant and Staff 2.5 minutes each in response.

10. Group 10 (10 A through 10C) --- Lack of Complete and Accurate Information  
Moniak/BREDL 10 minutes total. Applicant and Staff 5 minutes each in response.

### C. Contentions of GANE

1. Contention 1--- Lack of Consideration of Safeguards in Facility Design  
GANE 3 minutes. Applicant and Staff 1.5 minutes each in response.

2. Contention 2--- Lack of Consideration of Physical Protection in Facility Design  
GANE 3 minutes. Applicant and Staff 1.5 minutes each in response.

3. Contention 3 --- Inadequate Seismic Design  
GANE 12 minutes. Staff 3 minutes in response. Applicant 15 minutes in response.

4. Contention 4 --- Inadequate Licensing Review by NRC Staff  
GANE 3 minutes. Applicant and Staff 1.5 minutes each in response.

5. Contention 5 --- Incorrect Designation of Controlled Area, and Contention 8 ---  
Impacts Minimized Through Incorrect Designation of Controlled Area, will be argued  
together.

GANE 10 minutes. Applicant and Staff 5 minutes each in response.

6. Contention 6 --- Inadequate Safety Analysis  
GANE 8 minutes. Staff 2 minutes in response. Applicant 6 minutes in response.

7. Contention 7--- ER Inadequate to Address the Environmental Impacts of Using MOX  
Fuel in the Catawba and McGuire Reactors

GANE 5 minutes. Applicant and Staff 2.5 minutes each in response.

8. Contention 9 --- Inadequate Cost Comparison  
GANE 3 minutes. Staff 2 minutes in response. Applicant 5 minutes in response.

9. Contention 10 --- Inadequate Discussion of Transportation Impacts  
GANE 5 minutes. Applicant and Staff 2.5 minutes each in response.

10. Contention 11--- ER Fails to Address the Waste Stream from Aqueous Polishing  
GANE 5 minutes. Applicant and Staff 2.5 minutes each in response.

11. Contention 12--- SPD EIS and ER are Deficient in Their Failure to Analyze  
Malevolent Acts of Terrorism and Insider Sabotage

GANE 5 minutes. Applicant and Staff 2.5 minutes each in response.

12. Contention 13---ER Lacks Probability Calculations  
GANE 5 minutes. Applicant and Staff 2.5 minutes each in response.

III. GANE Motion to Dismiss:

We grant GANE's September 10, 2001 Motion for Leave to Enter Limited Appearance by Diane Curran in order to present oral argument regarding the GANE August 13, 2001, Motion to Dismiss Licensing Proceeding, or in the Alternative Hold it in Abeyance. GANE's argument should only address the written responses of the Applicant and the Staff. The time allocations for this argument are as follows:

GANE 15 minutes total. Applicant 10 minutes in response.  
Staff 5 minutes in response.

Due to the number of contentions and the time constraints for argument, the Board emphasizes that the Petitioners' arguments must focus on the responses of the Applicant and Staff opposing their contentions, and how their contentions meet section 2.714(b)(2). Any deviation from this instruction will be held in extreme disfavor by the Board.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>1</sup>

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Thomas S. Moore  
ADMINISTRATIVE JUDGE

Rockville, Maryland

September 14, 2001

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<sup>1</sup> Copies of this Order were sent this date by Internet e-mail transmission to (1) Intervenor Glenn Carroll/GANE; (2) Intervenor Donald Moniak/BREDL; (3) Applicant DCS; and (4) the NRC staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
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DUKE COGEMA STONE & WEBSTER	)	Docket No. 70-3098-ML
	)	
(Savannah River Mixed Oxide Fuel	)	
Fabrication Facility)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB SCHEDULING ORDER DATED 09/14/2001, have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Thomas S. Moore, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Charles N. Kelber  
Atomic Safety and Licensing Board Panel  
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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Peter S. Lam  
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Docket No. 70-3098-ML  
LB SCHEDULING ORDER DATED 09/14/2001

Ruth Thomas, President  
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Glenn Carroll  
Georgians Against Nuclear Energy  
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Atlanta, GA 30306

Donald J. Moniak  
Blue Ridge Environmental Defense League  
P.O. Box 3487  
Aiken, SC 29802

Edna Foster  
120 Balsam Lane  
Highlands, NC 28741

[Original signed by Emile L. Julian]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 14<sup>th</sup> day of September 2001